

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

2006 DEC 12 PM 3:11

FIELD
EPA REGION VIII
HEARING CLERK

DOCKET NO.: TSCA-08-2004-0004

IN THE MATTER OF:

NODAK ELECTRIC COOPERATIVE, INC.

4000 32ND Avenue South
Grand Forks, ND 58201

RESPONDENT

**ORDER GRANTING FILING OF
FACSIMILE SIGNATURE PAGE
and FINAL ORDER**

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. This court accepts the facsimile filing of the signature page in this matter at this time, however the parties are to file the original signature page within seven days of issuance of this Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 12th Day of December, 2006

[Handwritten signature]

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2006 DEC 12 PM 3:11

DOCKET NO. TSCA-08-2006-0004

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)	
)	
NODAK ELECTRIC COOPERATIVE,)	
INC.)	CONSENT AGREEMENT
4000 32 nd AVENUE SOUTH)	
GRAND FORKS, ND 58201,)	
)	
Respondent.)	

Complainant, United States Environmental Protection Agency-Region 8, and Respondent, Nodak Electric Cooperative, Inc., by their undersigned representatives, hereby consent and agree as follows:

1. On or about September 12, 2006, Complainant issued a Complaint to Respondent in this matter alleging certain violations of the Toxic Substances Control Act (TSCA) and its implementing regulations. In the Complaint, Complainant proposed a civil penalty of \$17,000.
2. Respondent admits the jurisdictional allegations, and neither admits nor denies the remaining allegations, of the Complaint. Respondent waives its right to contest any allegations at a hearing or at a civil proceeding in connection with the enforcement of the Final Order incorporating this Consent Agreement.
3. Within thirty (30) calendar days of receipt of a fully-executed Consent Agreement in this matter, Respondent shall pay a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000) by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank
EPA-Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251

The payment shall reference the name and address of Respondent and the EPA Docket Number of this action. A copy of the transmittal of payment shall be sent simultaneously to Jessie Goldfarb (8ENF-L), Senior Enforcement Attorney, U.S. EPA-Region 8. Until January 5, 2007, Ms. Goldfarb's address is:

999 18th Street, Suite 300
Denver, CO 80202-2466.

After January 5, 2007, Ms. Goldfarb's address will be:

1595 Wynkoop Street
Denver, CO 80202-1129.

4. If Respondent fails to pay the amount specified in Paragraph 3 by the due date specified in that Paragraph, the entire proposed penalty of SEVENTEEN THOUSAND DOLLARS (\$17,000) shall immediately become due and owing by Respondent. Furthermore, interest on the entire proposed penalty of SEVENTEEN THOUSAND DOLLARS (\$17,000) shall accrue at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of ONE HUNDRED DOLLARS (\$100) shall be imposed upon Respondent after the first 30 days that a payment, or any portion thereof, is overdue, with an additional charge of FIFTY DOLLARS (\$50) imposed for each subsequent 30-day period until the payment due is received. In addition, a six per cent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days of any installment due date.

5. Respondent understands that failure to comply with any of the terms of this Consent Agreement, upon incorporation into a Final Order, will constitute a breach of the Agreement and Order and may result in referral of the matter to the United States Department of Justice for enforcement of the Agreement, and for such other relief as is deemed appropriate.

6. The parties agree to submit this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

7. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full settlement of the specific violations alleged in the Complaint in this matter.

8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the TSCA, its implementing regulations, and other environmental laws.

9. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes under 28 U.S.C. § 162(f).

10. The parties agree to bear their own costs and attorney fees.

11. The undersigned representative of each party to this Consent Agreement certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms and bind that party to the Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY-
REGION 8, Complainant

12/11/06
Date

Martin Hestmark
Martin Hestmark, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

12/8/06
Date

Michael T. Besim pro
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

12-7-06
Date

Jessie Goldfarb
Jessie Goldfarb
Senior Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice

NODAK ELECTRIC COOPERATIVE, INC.,
Respondent.

12-07-06
Date

George Benz
George Benz
President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED ORDER GRANTING FACSIMILE SIGNATURE FILING AND CONSENT AGREEMENT/FINAL ORDER** in the matter **NODAK ELECTRIC COOPERATIVE, INC., DOCKET NO.: TSCA-08-2006-0004** was filed with the Regional Hearing Clerk on December 12, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Jessie Goldfarb, Senior Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 12, 2006, to:

David Sogard, Esq.
Nodak Electric Cooperative
P. O. Box 13200
Grand Forks, ND 58208-3200

Pouch mailed to:

Honorable Barbara Gunning
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (1900L)
Washington, DC 20460

Telefaxed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268
513-487-2063

December 12, 2006



Tina Artemis
Regional Hearing Clerk/Paralegal



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